

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2007-1415-DJP

PROJECT MANAGER: Dale Pfeiffle

PROJECT REVIEW/DETERMINATION COMPLETED: In the office? Y ☒ N ☐ Date: Mar. 22, 2007

At the project site? Y ☐ N ☐ Date:

PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Waukesha

Center coordinates of site by latitude & longitude: 42.9883471495N, 88.4167454431W

Approximate size of site/property (including uplands) in acres: 58

Name of waterway or watershed: Upper Rock, Illinois, Wisconsin

Type of Aquatic Resource:	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Ft	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands				7.26 acres					
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

1 Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

1 Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary ☐ Or Approved: ☒

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ADDITIONAL INFORMATION SUPPORTING njd (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite): A wetland delineation was received at the Waukesha office for review and concurrence. A review of the Waukesha County IMS aerial photography (1941-2005), the USGS quadrangles (Eagle & Oconomowoc East, WI), the local soil survey, and the Waukesha County IMS topographic mapping indicates that the wetland boundaries have been correctly identified and are adequate to establish the extent of Corps jurisdiction.

The wetland delineation identified 14-separate wetlands areas on the 58-acre property. The delineation report identified 11-wetlands as isolated waterbodies and the remaining 3 wetlands as adjacent to a tributary (Wales Creek) to Scuppernong Creek. The review of aerial photography and local topographic mapping, verified the delineation report's conclusions regarding Corps jurisdiction. The 11-wetlands identified as isolated waterbodies are described as being confined to kettle depressions containing fresh wet meadow, sedge meadow, ponds, emergent marsh, and lowland forest habitats. The 11-isolated waterbodies have a combined surface area of approximately 7.26 acres. Connections between the 11-wetlands and interstate commerce were also considered but could not be identified. Therefore, these 11-wetlands are isolated waters that would not be subject to Corps Section 404 jurisdiction.

The remaining 3-wetlands, with a combined surface area of approximately 3.68 acres are located along the northern property boundary and are part of a larger wetland complex. The Eagle and Oconomowoc East USGS quadrangles indicate that this larger wetland complex is adjacent to a tributary to Scuppernong Creek, which is tributary to the Bark River, which is tributary to the Rock River, a navigable water of the US. Therefore these 3-wetlands are waters of the US subject to Corps jurisdiction.

The property is under consideration for residential development. Development plans were not provided and potential wetland impacts are not known.